

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

REUBEN HENRY,)	
)	
Plaintiff,)	
)	Civil Action No. 10-189 ERIE
v.)	
)	
SGT MILLER, LT. T. MURIN,)	
LT. JONES, and CO AVERILL)	
)	
Defendants.)	

ORDER OF COURT RE DOC. NOS. 155, 156, AND 157

Plaintiff filed this case over three (3) years ago, on August 5, 2010. This Court assumed responsibility for the case on August 27, 2013, upon Judge McLaughlin's resignation. The Court promptly issued a Pretrial/Trial Order (doc. no. 124) on August 28, 2013, scheduling the jury trial for November 21, 2013, and re-scheduled by Text Order of October 3, 2013, for November 20, 2013, in two (2) days.

The Court on October 3, 2013, scheduled a telephone conference with Plaintiff and counsel for Defendants, which was conducted on October 17, 2013. An extensive pretrial conference was conducted that day with rulings on certain witnesses, rulings on admissibility of exhibits, and setting of the schedule for additional pretrial statements, motions in limine, and other pretrial matters. See several Text Orders, dated October 21, 2013. The Court set the Final Pretrial Conference for November 20, 2013, at 9:30 AM, with Jury Selection and Trial immediately thereafter. See Text Order, dated October 21, 2013.

Since that date, the Court has ruled on numerous pretrial motions, including four (4) motions in limine (doc. nos. 127, 133, 135, and 138). See Orders, dated October 13, 2013 - - doc. nos. 149, 150, 151, and 152. The Orders have been entered on ECF and mailed to Plaintiff,

along with the tentative final Verdict Slip (doc. no. 153), and the tentative Final Jury Instructions (doc. no. 154), on November 14, 2013.

On Friday, November 15, 2013, within days of the arrival of the jury and the commencement of trial on Wednesday, November 20, 2013, Plaintiff filed three (3) pleadings, as follows:

1. Doc. no. 155 - "Motion to Reschedule Final Pretrial Conference," which would effectively postpone the trial;
2. Doc. no. 156 - "Motion to Strike Defendants' Exhibits to be Presented at Trial, Subpoena Duces Tecum, and Request to Reschedule Final Pretrial Conference"; and
3. Doc. no. 157 - "Subpoena Duces Tecum," seeking the attendance at the trial of four additional witnesses -- Prisoner Williams, Prisoner Rivera, Ex-SCI-Forest employee Lt. Fox, and SCI Forest Nurse Rhonda.

The Court denies the foregoing Motions. After waiting three (3) years for his trial, Plaintiff now seeks to delay the trial. The Court conducted an extensive discussion relating to the relevant witnesses and exhibits for the trial at the October 17, 2013, telephone conversation, and made rulings thereon. Plaintiff's attempt to circumvent these rulings by means of the above three (3) pleadings is inconsistent with rulings to date by this Court, and inconsistent with the need to have this case tried -- especially since the case is more than three (3) years old. Additionally, the Court finds that the Motions, and related "Subpoena Duces Tecum," to be without merit.

Therefore, the Court DENIES Plaintiff's motions filed at doc. nos. 155 and 156, and QUASHES the "Subpoena Duces Tecum," filed at doc. no. 157.

SO ORDERED, this 18th day of November, 2013

s/ Arthur J. Schwab
Arthur J. Schwab
United States District Court Judge

Cc: Pro se Plaintiff at address on record